THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.3224 OF 2006

Between:

K.Ashok … petitioner.

And

The District Collector and Others … Respondent.

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.3224 OF 2006

ORDER:

This writ petition has been filed by the petitioner seeking to declare the show cause notice issued under Section 7 of the A.P. Land Encroachment Act 1905 issued by the third respondent, Mandal Revenue Officer, Siddipet, vide proceedings No.B/26321/2006, as illegal and arbitrary.

A perusal of the said show cause notice goes to show that it is only a show cause notice issued under Section 7 of the Act as to why the respondents shall not proceed against the petitioner under Section 5 or 6 of the said Act, if no explanation is submitted on or before 20.2.2006. But the learned counsel for the petitioner

submitted that this is not a show cause notice under Section 7 of the Act, but it is an order under Section 5 of the Act coming to conclusion that as to why the penalty shall not levied under Section 5 of the Act. I am unable to accept the said contention.

Admittedly, the petitioner filed an explanation to the show cause notice on 18.2.2006 and unless orders are passed considering the said explanation, the question of levying penalty automatically under Section 5 of the Act does not arise. An order is to be passed under Section 7 of the Act specifying that whether the petitioner is in unauthorized occupation of the government land or not, and if an order is passed coming to conclusion that the petitioner is in unauthorized possession of the government land, then the next course open for the respondents is to pass an order under Section 5 or 6 of the Act. Therefore, this being a show cause notice, I am not inclined to grant any relief.

However, the writ petition is disposed of directing the third respondent to consider and pass appropriate orders under Section 7 of the Act. If the respondents come to the conclusion that the petitioner has occupied the government land, then only it is open for the respondents to take appropriate action under Section 5 or 6 of the Act, in accordance with law.

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03.03.2006.

mdaa.